

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 19-384V

Filed: April 14, 2023

UNPUBLISHED

MARILYN DIXON HILL,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Master Daniel Horner

Ruling on Entitlement; Concession;  
Table Injury; Guillain Barre  
Syndrome ("GBS")

*Emily Beth Ashe, Anapol Weiss, Philadelphia, PA, for petitioner.*

*Madelyn Weeks, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On January 7, 2021, Marilyn Dixon Hill ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that she suffered from "Guillain-Barre Syndrome ("GBS") and Chronic Inflammatory Demyelinating Polyneuropathy ("CIDP") as a result of her November 10, 2010 influenza ("flu") vaccination. (ECF No. 1.)

On October 16, 2020, respondent filed his initial Rule 4(c) Report and Motion to Dismiss. (ECF No. 39; ECF No. 40.) Respondent's Motion was denied and petitioner was ordered to file an expert report. (ECF No. 43.) Petitioner then filed her expert report on January 13, 2021. (ECF No. 45.) On April 6, 2022, respondent requested

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

permission to file an amended Rule 4(c) Report. (ECF No. 65.) On April 11, 2023, respondent filed his amended Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case given petitioner's expert report. (ECF No. 76 at 1.) Specifically, respondent states that: "It is respondent's position that petitioner has satisfied the criteria set forth in the Vaccine Injury Table ("Table") and the Qualifications and Aids to Interpretation ("QAI") for GBS." (*Id.* at 11 (citations omitted).) Respondent further agrees that "the records show that petitioner received the flu vaccine in the United States, that she satisfies the statutory severity requirement by suffering the residual effects or complications of her injury for more than six months after vaccine administration, and that her petition is timely filed by virtue of the 'lookback' provision of Section 16(b) of the Vaccine Act." (*Id.* at 11-12 (citations omitted).)

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Daniel T. Horner**

Daniel T. Horner  
Special Master